

Brent O. Hatch (5715)
HATCH, JAMES & DODGE, PC
10 West Broadway, Suite 400
Salt Lake City, Utah 84101
Telephone: (801) 363-6363
Facsimile: (801) 363-6666

Robert Silver, Esq. (admitted pro hac vice)
BOIES, SCHILLER & FLEXNER LLP
333 Main Street
Armonk, New York 10504
Telephone: (914) 749-8200
Facsimile: (914) 749-8300

Attorneys for Plaintiff The SCO Group, Inc.

Stephen N. Zack (admitted pro hac vice)
Mark J. Heise (admitted pro hac vice)
BOIES, SCHILLER & FLEXNER LLP
Bank of America Tower – Suite 2800
100 Southeast Second Street
Miami, Florida 33131
Telephone: (305) 539-8400
Facsimile: (305) 539-1307

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

OCT - 4 2004

MARKUS B. ZIMMER, CLERK
BY  DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.

Plaintiff/Counterclaim-
Defendant,

vs.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant/Counterclaim-
Plaintiff.

**EX PARTE MOTION FOR LEAVE
TO FILE OVER-LENGTH
MEMORANDUM**

Civil No. 2:03CV0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke Wells

Plaintiff/Counterclaim-Defendant The SCO Group (“SCO”) hereby moves the Court pursuant to District Court Rule 7-1(e) for leave to file an over-length Reply Brief in Further Support of Its Supplemental Memorandum Regarding Discovery.


The discovery issues raised in the present briefing go to the very heart of the issues in this case. Nearly a year ago, SCO requested the most basic discovery in this case from IBM, including versions of AIX and Dynix code. IBM, in large part, has refused to provide the requested discovery

314

which, as described in SCO's prior memoranda, is essential to the development of SCO's claims and defenses. Given the importance of the issues to SCO, it is necessary for SCO to fully address, clarify and rebut IBM's arguments and explain to the Court the importance of the requested discovery.

To address these issues and place them in context for the Court, SCO respectfully requests leave to file an over-length memorandum. SCO's Memorandum now contains 26 pages exclusive of face sheet and table of contents. SCO respectfully submits that the excess length is necessary to fully address the issues.

DATED this 4th day of October, 2004.



HATCH, JAMES & DODGE, P.C.
Brent O. Hatch
Mark F. James

BOIES, SCHILLER & FLEXNER LLP
Robert Silver, Esq. (admitted pro hac vice)
Stephen N. Zack (admitted pro hac vice)
Mark J. Heise (admitted pro hac vice)

CERTIFICATE OF SERVICE

Plaintiff, The SCO Group, hereby certifies that a true and correct copy of **EX PARTE MOTION FOR LEAVE TO FILE OVER-LENGTH MEMORANDUM** was served on Defendant International Business Machines Corporation by first class mail on the 4th day of October, 2004, as follows:

Alan L. Sullivan, Esq.
Todd M. Shaughnessy, Esq.
Snell & Wilmer L.L.P.
15 West South Temple, Ste. 1200
Salt Lake City, Utah 84101-1004

Evan R. Chesler, Esq.
Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, NY 10019

Donald J. Rosenberg, Esq.
1133 Westchester Avenue
White Plains, New York 10604

A handwritten signature in black ink, appearing to read "M. A. U. C. Q.", is written over a horizontal line.